

CCASE:
SOL (MSHA) V. LOUISIANA INDUSTRIES
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
PETITIONER

v.

LOUISIANA INDUSTRIES, INC.,
RESPONDENT

CIVIL PENALTY PROCEEDING

Docket No. CENT 84-43-M
A.C. No. 16-00335-05501

Perryville Sand & Gravel
Plant

DISAPPROVAL OF SETTLEMENT
ORDER OF ASSIGNMENT

The Solicitor has filed a motion to approve settlements in the amount of \$20 apiece for the three violations involved in this matter. The Solicitor's motion contains no discussion regarding the circumstances of any of these violations. At least two of the violations indicate on their face that some degree of gravity might be involved. Citation No. 2236638 was issued for an unsecured oxygen cylinder and acetylene cylinder. Citation No. 2236640 was issued because the catloader was not provided with a fire extinguisher.

It is now well established that the Commission and its administrative law judges have de novo authority to assess penalties under the Act. *United States Mining Co., Inc.*, FMSHRC Docket No. PENN 82-328, Slip. Op. (May 31, 1984). See also, *Sellersburg Stone Co., v. Federal Mine Safety and Health Review Commission*, --- F.2d ---- (7th Cir.1984), *aff'g*, 5 FMSHRC 287, 291 (March 1983); *Knox County Stone Co., Inc.*, 3 FMSHRC 2478, 2480-81 (November 1981); *Tazco, Inc.*, 3 FMSHRC 1895, 1896-98 (August 1981); *Shamrock Coal Co.*, 1 FMSHRC 469 (June 1979), *aff'd*, 652 F.2d 59 (6th Cir.1981).

The Solicitor must therefore explain why \$20 penalties are justified for these three citations.

In order to expedite the handling of this matter, including the setting of this case for hearing, if appropriate, this case is hereby assigned to Administrative Law

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Judge Michael A. Lasher. All future communications regarding this case should be addressed to him at the following address:

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Office of Administrative Law Judges
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Falls Church, VA 22041
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Paul Merlin
Chief Administrative Law Judge